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Approved for use through 10/31/2002. OMB 0651-0032
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

UTILITY
PATENT APPLICATION
TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No. SY01106KQ1

First Inventor Wild et al.

Title Recombinant Laryngotracheitis Virus and Uses Thereof

Express Mail Label No. EL 40323601SUS

Assistant Commissioner for Patents
Box Patent Application
Washington, DC 20231

APPLICATION ELEMENTS

See MPEP chapter 800 concerning utility patent application contents.

1. ☒ Fee Transmittal Form (e.g., PTO/SB117)
(Submit an original and a duplicate for fee processing)

2. ☐ Applicant claims small entity status.
See 37 CFR 1.27.

3. ☒ Specification [Total Pages 179]
(Preferred arrangement set forth below)
- Descriptive title of the invention
- Cross Reference to Related Applications
- Statement Regarding Fed sponsored R & D
- Reference to sequence listing, a table, or a computer program listing appendix
- Background of the invention
- Brief Summary of the invention
- Brief Description of the Drawings (if filed)
- Detailed Description
- Claim(s)
- Abstract of the Disclosure

4. ☐ Drawing(s) (35 U.S.C. 113) [Total Sheets]

5. Oath or Declaration [Total Pages 3]
a. ☐ Newly executed (original or copy)
Copy from a prior application (37 CFR 1.63 (d))
b. ☒ (for continuation/divisional with Box 18 completed)

DELETION OF INVENTOR(S)

i. ☐ Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).

6. ☐ Application Data Sheet. See 37 CFR 1.76

ADDRESS TO:

7. ☐ CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)
8. Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)
a. ☐ Computer Readable Form (CRF)
b. Specification Sequence Listing on:
i. ☐ CD-ROM or CD-R (2 copies); or
ii. ☐ paper
c. ☐ Statements verifying identity of above copies

ACCOMPANYING APPLICATION PARTS

9. ☐ Assignment Papers (cover sheet & document(s))
10. ☐ 37 CFR 3.73(b) Statement of Attorney (when there is an assignee) ☐ Power of Attorney
11. ☐ English Translation Document (if applicable) ☐ Copies of IDS Citations
12. ☐ Information Disclosure Statement (IDS)/PTO-1449
13. ☒ Preliminary Amendment
14. ☒ Return Receipt Postcard (MPEP 503) (Should be specifically itemized)
15. ☐ Certified Copy of Priority Document(s) (if foreign priority is claimed)
16. ☐ Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.
17. ☒ Other: Request for Transfer, 1 pg

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

☒ Continuation ☐ Divisional ☐ Continuation-in-part (CIP)
Examiner Brumback, B.

of prior application No. 08, 468,190
Group Art Unit: 1642

Prior application information:
For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS

☒ Customer Number or Bar Code Label 24265 or ☐ Correspondence address below

Name Pamela G. Salkeld (Reg. No. 38607)

Address

City

Country

State

Telephone

Zip Code

Fax

Registration No. (Attorney/Agent)

Name (Print/Type)

Signature

Date

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FILING RECEIPT



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTORNEY DOCKET NO.	DRWGS	TOT CL	IND CL
08/468,190	06/06/95	1802	\$519.00	39116-B/JPW/	35	1	1

JOHN P WHITE
COOPER AND DUNHAM
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Application Processing Division's Customer Correction Branch within 10 days of receipt. Please provide a copy of the Filing Receipt with the changes noted thereon.

Applicant(s)

MARTHA A. WILD, SAN DIEGO, CA; MARK D. COCHRAN,
CARLSBAD, CA.

CONTINUING DATA AS CLAIMED BY APPLICANT-

THIS APPLN IS A CON OF 08/410,121 03/23/95
WHICH IS A CIP OF 08/126,597 09/24/93

FOREIGN FILING LICENSE GRANTED 07/26/95

* SMALL ENTITY *

TITLE
RECOMBINANT INFECTIOUS LARYNGOTRACHEITIS VIRUS AND USES THEREOF

PRELIMINARY CLASS: 435

JAN 24 1996



0380

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	09/993,777
Filing Date	November 6, 2001
First Named Inventor	Wild et al.
Group Art Unit	
Examiner Name	
Attorney Docket Number	SY01106KQ1

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ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment / Response	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input checked="" type="checkbox"/> Additional Enclosure(s) (please identify below)
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	Request Filing Receipt - 3 pgs
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Small Entity Statement	Patent Applic. Transmittal - copy- 1 page
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> Request for Refund	Filing Receipt copy 1 pg
<input type="checkbox"/> Response to Missing Parts/Incomplete Application	Remarks	Cert of Mailing 1 pg
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		Return Postcard

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Michael G. Biro, Reg. No. 46,556
Signature	<i>Michael Biro</i>
Date	September 23, 2002

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date:	
Typed or printed name	
Signature	Date

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OFFICE OF PETITIONS



Attorney Packet No.: SY01106KQ1

Serial No.: 09/993,777

Filing Date: November 6, 2001

Inventor: Wild et al.

PTO/SB92 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031

U. S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Certificate of Mailing under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

**Assistant Commissioner for Patents
Washington, D.C. 20231**

on September 23, 2002

Date

Michael Biro

Signature

Michael G. Biro, Reg. No. 46,556

Typed or printed name of person of signing Certificate

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

Documents enclosed:

Request for Filing Receipt - 3 pgs. Transmittal Form (sb/21) - 1 pg.

Utility Patent Application Transmittal (date 11/6/01) copy 1 pg.

Filing Receipt copy - 1 pg.

Supplemental Preliminary Amendment - 2 pgs.

Certificate of Mailing- 1 pg.; Return Postcard

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group Art Unit:

Examiner:

In re application of:

Martha A. Wild *et al.*

Serial No.: 09/993,777

Filing Date: November 6, 2001

Attorney Docket No.: SY 01106 KQ1 US

Title:

RECOMBINANT INFECTIOUS
LARYNGOTRACHEITIS VIRUS
AND USES THEREOF

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REQUEST FOR FILING RECEIPT

Kenilworth, NJ 07033
September 23, 2002

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

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OFFICE OF PETITIONS

Applicants request a filing receipt for the above-captioned application.

Applicants filed the above-captioned application on November 6, 2001. The application, as filed, included: a Utility Patent Application Transmittal form (PTO/SB/05); a Fee Transmittal for FY 2002 form (PTO/SB/17); a Preliminary Amendment; a Request for Transfer of Computer Readable Form of Sequence Listing; a copy of an executed Declaration and Power of Attorney from the grandparent application (U.S. Application Serial No. 08/410,121); a copy of the grandparent patent application, including 172 pages of Specification, 6 pages of Claims, and a 1 page Abstract; a U.S.

Application Data Sheet; and a return receipt postcard. However, applicants inadvertently omitted 35 pages of drawings from the application, as filed.

Applicants then received a Notice of Incomplete Nonprovisional Application stating that the application, as filed, was deposited without drawings and did not contain a statement that the content of the sequence listing information recorded in computer readable form is identical to the written sequence listing. Applicants subsequently filed a Petition to be Accorded a Filing Date, which included the inadvertently omitted 35 pages of drawings and the inadvertently omitted statement. Applicants then received a Decision Granting-In-Part stating that the petition was granted to the extent that the application will be accorded the filing date of November 6, 2001, without the 35 pages of drawings as part of the original disclosure of the application.

Despite the omission of the 35 pages of drawings in the as filed application, applicants believe the later filed drawings are a part of the original disclosure. Specifically, section 18 of applicants' Utility Patent Application Transmittal form (copy enclosed) states that the above-captioned application is a continuation of United States Patent Application Serial No. 08/468,190. In addition, this same section recites:

For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

Accordingly, applicants believe that the above-captioned application incorporates by reference the parent application, U.S. Patent Application Serial No. 08/468,190. The parent application included 35 pages of drawings, as evidenced from the Filing Receipt in

the parent application (copy enclosed). As a result, applicants further believe that the 35 pages of inadvertently omitted drawings are entitled to the November 6, 2001 filing date.

Applicants also cite M.P.E.P. § 201.06(c), Incorporation by Reference, in support of their position, which states:

As a safeguard, however, an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application.

Accordingly, applicants request that a Filing Receipt be issued in the above-captioned application indicating 35 pages of drawings.

If the Patent and Trademark Office has any questions regarding the above matter, the Office may contact the undersigned at the number set forth below.

Respectfully submitted,

Michael G. Biro

Michael G. Biro
Reg. No. 46,556

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